

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**B.P.J., by her next friend and mother,
HEATHER JACKSON,
Plaintiff,**

v.

**Civil Action No. 2:21-cv-00316
Honorable Joseph R. Goodwin, Judge**

**WEST VIRGINIA STATE BOARD OF EDUCATION,
HARRISON COUNTY BOARD OF EDUCATION,
WEST VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION, W. CLAYTON BURCH
in his official capacity as State Superintendent, and
DORA STUTLER in her official capacity as
Harrison County Superintendent, PATRICK MORRISEY
In his official capacity as Attorney General, and THE
STATE OF WEST VIRGINIA,
Defendants.**

CERTIFICATE OF SERVICE

I hereby certify that I, Roberta F. Green, have this day, the 22nd day of November, 2021, served a true and exact copy of *“WVSSAC’s Responses to Plaintiff’s First Set of Requests for Production”* on counsel by electronic means:

Loree Stark
ACLU of WV FOUNDATION
P.O. Box 3952
Charleston, WV 25339-3952
lstark@acluwv.org

Katelyn Kang
COOLEY LLP
55 Hudson Yards
New York, NY 10001-2157
kkang@cooley.com

Kathleen R. Hartnett
Julie Veroff
COOLEY LLP
101 California St., 5th Floor
San Francisco, CA 94111-5800
khartnett@cooley.com

Elizabeth Reinhardt
COOLEY LLP
500 Boylston St., 14th Floor
Boston, MA 02116-3736
ereinhardt@cooley.com

Andrew Barr
COOLEY LLP
1144 15th St., Suite 2300
Denver, CO 80202-5686
abarr@cooley.com

Joshua Block
Taylor Brown
Chase Strangio
ACLU FOUNDATION
125 Broad Street
New York, NY 10004
jblock@aclu.org

Sruti Swaminathan
LAMBDA LEGAL
120 Wall St., 19th Floor
New York, NY 10005
sswaminathan@lambdalegal.org

Kelly C. Morgan
BAILEY & WYANT, PLLC
500 Virginia St., East, Suite 600
Charleston, WV 25301
kmorgan@baileywyant.com

Douglas P. Buffington, II
Curtis R.A. Capehart
Jessica A. Lee
State Capitol Complex
Building 1, Room E-26
Charleston, WV 25305-0220
Curtis.R.A.Capehart@wvago.gov

Avatara Smith-Carrington
LAMBDA LEGAL
3500 Oak Lawn Ave., Suite 500
Dallas, TX 75219
asmithcarrington@lambdalegal.org

Carl Charles
LAMBDA LEGAL
1 West Court Square, Suite 105
Decatur, GA 30030
ccharles@lambdalegal.org

Susan Llewellyn Deniker
STEPTOE and JOHNSON, LLC
400 White Oaks Boulevard
Bridgeport, WV 26330
susan.deniker@steptoe-johnson.com

Tara Borelli
LAMBDA LEGAL
1 West Court Square, Suite 105
Decatur, GA 30030
tborelli@lambdalegal.org

David C. Tryon
West Virginia Atty. General's Office
1900 Kanawha Blvd., E.
Bldg. 1, Rm 26E
Charleston, WV 25305
David.C.Tryon@wvago.gov

/S/ Roberta F. Green

Roberta F. Green, Esquire (WVSB #6598)
SHUMAN MCCUSKEY SLICER PLLC
Post Office Box 3953 (25339)
1411 Virginia Street E., Suite 200 (25301)
Charleston, West Virginia
Phone: (304) 345-1400
Facsimile: (304) 343-1826
Counsel for Defendant WVSSAC

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Harrison County Superintendent, PATRICK MORRISEY
In his official capacity as Attorney General, and THE
STATE OF WEST VIRGINIA,
Defendants.**

**WVSSAC'S RESPONSE TO PLAINTIFF'S FIRST SET OF
REQUESTS FOR PRODUCTION TO DEFENDANT**

Now comes West Virginia Secondary School Activities Commission (WVSSAC), by counsel, and responds as follows to Plaintiff's First Set of Requests for Production to Defendant The West Virginia Secondary School Activities Commission.

Defendant has not completed discovery in this civil action and has not completed its preparation for trial. For these reasons, the Defendant's responses are based upon only such information and documents as are presently available and known to WVSSAC. Further discovery and independent investigation may lead to other responsive information and/or documents. The following responses are given in good faith but without prejudice to the Defendant's right to produce evidence of subsequently discovered facts or documents.

The Defendant avails itself of all rights under the Federal Rules of Civil Procedure and such other applicable rules and law, and objects to the instructions contained in Plaintiff's

discovery requests to the extent such instructions attempt to impose burdens on the Defendant that are outside the scope of the Rules or the law generally. The Defendant is not bound to follow any instructions which may be contrary to the Rules and other law.

As noted below, WVSSAC documents are available at <https://www.wvssac.org/>

Without waiving the foregoing, the Defendant provides the following responses.

DOCUMENTS TO BE PRODUCED

To the extent that Plaintiff's Requests extend to "all" documents, policies, communications or other, WVSSAC objects to the scope as overly broad, insufficiently descriptive and reserves the right to supplement these responses or to object further thereafter.

REQUEST NO. 1: All DOCUMENTS, POLICIES, and COMMUNICATIONS CONCERNING the participation of students who are transgender in school sports of any level in West Virginia..

RESPONSE:

Given that all WVSSAC documents and policies are gender neutral, their communications are gender neutral as well. Therefore, all and none of WVSSAC's documents, policies and communications are responsive. WVSSAC seeks further guidance on what Plaintiff seeks to receive here and will revisit this request. Further, all of WVSSAC's publications are available on its website: <https://www.wvssac.org/> See also WVSSAC000001-WVSSAC000009.

REQUEST NO. 2: All DOCUMENTS, POLICIES, and COMMUNICATIONS CONCERNING sex separation in school sports in West Virginia.

RESPONSE:

WVSSAC objects to the term ‘sex separation’ as outside its nomenclature. If Plaintiff can clarify the request, WVSSAC will revisit this response. Without waiving that request for clarification, WVSSAC reports that its rules, regulations and publications are available on its website: <https://www.wvssac.org/>

REQUEST NO. 3: All DOCUMENTS, POLICIES, and COMMUNICATIONS CONCERNING the implementation, enforcement, or application of H.B. 3293, including with respect to B.P.J. and to any student who is transgender other than B.P.J.

RESPONSE:

See WVSSAC000001-WVSSAC000007, WVSSAC000009.

REQUEST NO. 4: All DOCUMENTS and COMMUNICATIONS CONCERNING the alleged displacement of cisgender girls in school sports in West Virginia by students who are transgender.

RESPONSE:

WVSSAC has no knowledge of and has had no involvement in such determinations. Therefore, none.

REQUEST NO. 5: All DOCUMENTS, POLICIES, and COMMUNICATIONS CONCERNING YOUR authority and/or control over secondary school athletics in West Virginia.

RESPONSE:

Objection; overly broad, as this requires a historical clarification and could further include regulations, state law including Court decisions, or other. WVSSAC was incorporated in 1916 and, even once recognized by the Legislature in the late 1960s, WVSSAC's order of business has not changed. Without waiving that objection and in a good faith effort to provide substantive responses, *see* WVSSAC000010-WVSSAC000222.

REQUEST NO. 6: All DOCUMENTS, POLICIES and COMMUNICATIONS CONCERNING YOU[R] authority, control, and involvement over Bridgeport Middle School's athletic programs.

RESPONSE:

See WVSSAC000010-WVSSAC000222.

REQUEST NO. 7: All of YOUR DOCUMENTS and POLICIES that B.P.J. is required to comply with in order to participate in secondary school athletics.

RESPONSE:

See WVSSAC000010-WVSSAC000222.

REQUEST NO. 8: All DOCUMENTS, COMMUNICATIONS, and POLICIES CONCERNING any federal funds, assistance, or aid that YOU receive whether directly or indirectly.

RESPONSE:

None beyond pandemic assistance such as was available to citizens generally. *But see, e.g., Rowan Blvd. Assoc. LLC v. Republic First Bank*, 2021 U.S. Dist. LEXIS 151890 (Aug. 12, 2021).

REQUEST NO. 9: All DOCUMENTS, COMMUNICATIONS, and POLICIES reflected in YOUR Fed. R. Civ. P. Rule 26(a) initial disclosures.

RESPONSE:

See <https://www.wvssac.org/>, with Board minutes included within the Interscholastic.

REQUEST NO. 10: All DOCUMENTS, POLICIES, and COMMUNICATIONS CONCERNING B.P.J.

RESPONSE:

None directly. Otherwise, *see* documents appended hereto.

REQUEST NO. 11: All DOCUMENTS from or exchanged between, and COMMUNICATIONS with, Alliance Defending Freedom and any of its officers, directors,

employees, partners, corporate parent, subsidiaries, affiliates, attorneys, accountants, consultants, representatives, and agents.

RESPONSE:

Objection; unlikely to lead to the discovery of admissible evidence. Without waiving that objection, none. WVSSAC has not knowingly communicated with Alliance Defending Freedom or any of its officers, directors, employees, partners, corporate parent, subsidiaries, affiliates, attorneys, accountants, consultants, representatives, and agents.

REQUEST NO. 12: All DOCUMENTS YOU relied upon, referenced in, or identified in answering B.P.J.'s interrogatories.

RESPONSE:

See documents appended hereto.

**WEST VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION,
By Counsel.**

/S/ Roberta F. Green

Roberta F. Green (WVSB #6598)
Kimberly M. Bandy (WVSB #10081)
SHUMAN MCCUSKEY SLICER PLLC
Post Office Box 3953 (25339)
1411 Virginia Street East, Suite 200 (25301)
Charleston, WV 25339
(304) 345-1400
(304) 343-1826 FAX